

STATE OF MICHIGAN  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of the Office of Financial and Insurance Services

In the matter of:

Kenneth W. Powers

Enforcement Case No. 06-4856

&  
Powers Insurance Agency Plus, Inc.

Respondents  
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Issued and entered,  
on 15 November, 2006,  
by Frances K. Wallace  
Chief Deputy Commissioner

CONSENT ORDER

I.  
BACKGROUND

Kenneth W. Powers and Powers Insurance Agency Plus, Inc. ("Respondents") licensed resident producers authorized to transact the business of insurance in the State of Michigan. The Office of Insurance and Financial Services received numerous complaints about the Respondents' alleged mishandling of client funds. After an investigation of these complaints, it was determined that Respondents had failed to remit premiums paid to it on behalf of its clients. Respondents and OFIS staff have conferred and have agreed to resolve this matter according to the terms set forth below.

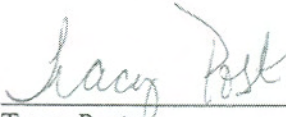
**II.  
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. Respondent Kenneth W. Powers (Powers) is a licensed resident producer authorized to transact the business of insurance in this state.
2. Respondent Powers Insurance Agency Plus, Inc. (Agency) is also a licensed resident producer authorized to transact the business of insurance in this state. Collectively, Powers and Agency are hereinafter referred to as Respondents.
3. Section 1207(1) of the Michigan Insurance Code requires an agent to be a fiduciary for all money received or held by the agent in his or her capacity as an agent. Failure by an agent in a timely manner to turn over the funds, which he or she holds in a fiduciary capacity to the persons to whom funds are owed, is prima facie evidence of violation of the agent's fiduciary responsibility.
4. Section 1239(1)(b) of the Michigan Insurance Code allows the Commissioner to place on probation, suspend, revoke, or refuse to issue an insurance producer's license or to levy a civil fine under Section 1244 of the Michigan Insurance Code or any combination of actions violating any insurance laws or violating any regulation, subpoena, or order of the Commissioner or of another state's insurance commissioner.
5. Section 1239(1)(d) of the Michigan Insurance Code allows the Commissioner to place on probation, suspend, revoke, or refuse to issue an insurance producer's license or to levy a civil fine under Section 1244 of the Michigan Insurance Code, or any combination of actions, if an insurance producer improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.
6. Section 1239(1)(h) of the Michigan Insurance Code allows the Commissioner to place on probation, suspend, revoke, or refuse to issue an insurance producer's license or to levy a civil fine under Section 1244 of the Michigan Insurance Code, or any combination of actions, if an insurance producer uses fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.
7. Respondents have failed to uphold these standards, as outlined above, therefore subjecting Respondents' insurance producer licenses to revocation by the Commissioner under Section 1244 of the Michigan Insurance Code.
8. Respondents have failed to remit insurance premiums paid to them by clients. Further, Respondents deposited funds which were earmarked for insurance premium payments and never forwarded the money to insurance companies on behalf of clients. As a result of Respondents' mishandling and misappropriation of these funds, its clients were subjected to additional insurance premiums, cancellation notices and/or lapses of insurance coverage.

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OFIS staff approves this Stipulation and recommends that the Commissioner issue the Consent Order above.

Dated: 11-15-06

  
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Tracy Post  
Staff Attorney